



Alaska's Sick Leave Law

Presented by: Renea Saade



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Please keep in mind....

- ▶ Sharing information for educational purposes
- ▶ Today's presentation is not adequate substitute reading law or seeking legal advice
- ▶ Law is too new to fully know impact, interpretational nuances or potential impacts
- ▶ Will try to answer questions but we're building the plane while flying!

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Ballot Measure 1

- ▶ Passed in Nov 2024 and effective July 1, 2025
- ▶ Led by Alaska AFL-CIO ("Pro-Labor Initiative")
- ▶ Spin off from PRO Act and other paid leave laws
- ▶ Similar to Executive Order 13706

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Ballot Measure 1

- ▶ Passed 58% to 42%
- ▶ Under Section 6 of Article XI of AK Constitution, Governor cannot veto laws passed by initiative
- ▶ Under same section, the Legislature cannot repeal such laws for 2 years

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Law *PLUS* Regulations *PLUS*...

- ▶ Primary law is Ballot 1 – now codified at Alaska Statute (AS) 23.10.066-23.10.069
- ▶ Must also review regulations (Alaska Administrative Code) - effective Sept 25, 2025 – 8 ACC 15.160, *et seq.*
- ▶ Dept of Labor – FAQs

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Impact of New Law

Does three things:

- (1) increases the minimum wage;
- (2) establishes paid sick leave;
- (3) prohibits employers from holding mandatory meetings for the primary purpose of sharing political or religious opinions (includes meetings in response to union campaigning)

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Increase in Minimum Wage

- ▶ \$13.00 as of July 1, 2025
 - ▶ Salary threshold = \$1,040 per workweek
- ▶ \$14.00 as of July 1, 2026
 - ▶ Salary threshold = \$1,120 per workweek
- ▶ Ensure that all wage posters are updated/posted
 - [Summary of Alaska Wage and Hour Act-01-2025.pdf](#)
- ▶ New posters include AK Paid Sick Leave Law req'd disclosure

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Applicability of Paid Sick Leave

- ▶ All employers (unlike AK Min Wage Act which only applies to 4+ employees)
- ▶ Any status of employee who works a total of 30 hours or more after July 1, 2025
- ▶ Can rely upon existing paid leave program if other requirements are met
- ▶ Cannot waive right except under clear & unambiguous CBA

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Some of the Exemptions

- ▶ Under 18 and work less than 30 hours per week
- ▶ Certain apprentices
- ▶ Certain student learners (on plan approved by AK DOL)
- ▶ Certain work therapy patients in alcohol/drug treatment program

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Non-Exempt Accrual Rate

- ▶ 1 hour every 30 hours worked

1-14 employees	Up to 40 hours per year
15 or more employees	Up to 56 hours per year

- ▶ “Employee” = wage/hour definition applies
- ▶ Headcount = # of FTE employed *calendar* year before based on total hours worked by all employees (or past 3 months if new business)
- ▶ “Per year” = consecutive 52 weeks defined by policy (default = calendar year)

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Exempt Accrual Rate

- ▶ Salaried employees, exempt from minimum wage, shall accrue based on 40 hours a week
- ▶ If EE typically work less than 40 hours, accrue based on normal hours worked.
- ▶ Accrual and usage cap same as non-exempt

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Alternative Approaches to Accrual

- ▶ Can rely upon existing paid time off programs as long as receive/accrue at least 1 hour per 30 hours worked and same rules of usage apply
- ▶ Can frontload the 40/56 hours at beginning of year to avoid tracking accrual – don't have to carryover & can prorate
- ▶ Must still meet notice requirements plus explain nuance
- ▶ Must still meet some recordkeeping obligations – be prepared for audit/claim

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Permissible Use

- ▶ Employee's own injury/illness, health condition or wellbeing, need for medical diagnosis, care, or treatment or need for preventative care – mental or physical
- ▶ To care for a family member
- ▶ When necessary to receive care or legal help related to domestic violence, sexual assault, or stalking

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Family Member = Immediate Family

- ▶ Much broader than FMLA
- ▶ Spouse
- ▶ Child – including by marriage, adoptive or foster
- ▶ Legal ward or legal guardian
- ▶ Parent (including foster/adoptive), sibling, grandparent, aunt, or uncle

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Family Member = Immediate Family

- ▶ Parent or sibling of employee's spouse
- ▶ Domestic partner or person cohabitating with the employee in a conjugal relationship that is not a legal marriage
- ▶ Any other individual related by blood or whose close association is the equivalent of a family relationship

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Limitations on Use

- ▶ Usage capped at 40/56 hours per year
- ▶ If need for leave is foreseeable, must:
 - make **good faith effort** to provide advance notice
 - use "**reasonable efforts**" to schedule in a manner that "does not unduly disrupt the employer's operations"

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What Does that Mean

Foreseeable need:

- ▶ Can be up to 10 calendar days but not more
- ▶ Defined by employer's written policy
- ▶ Not schedule medical appmt during:
 - peak business hours
 - when work is time sensitive
 - mandatory meeting if EE's absence would unduly disrupt

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What Does That Mean

Unforeseeable need:

- ▶ Before start of shift or..... As soon as possible
- ▶ Depends upon the circumstances
- ▶ Ok to ask why didn't call before start of shift
- ▶ Test = reasonable person

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Verifying Documentation

- ▶ Provide note from health care provider or other documentation to evidence need/use of leave consistent with law if absence more than 3 consecutive scheduled workdays
- ▶ Must be requirement in employer's written policy
- ▶ Employer can ask reasonable follow up questions of employee – not communicate directly with health care provider (other than to verify issuance) unless expressly authorized by employee
- ▶ May be able to count follow up time off within next 30 days if for the same reason and covered by FMLA

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Holding Employees Accountable

- ▶ Important to review/update written policies to create carve out/separate rule for sick leave
- ▶ Can discipline and possibly deny/postpone leave but must have evidence of distribution of policy
- ▶ Approach to discipline must be consistent – otherwise risk for retaliation/discrimination claims
- ▶ Communication and initial verbal warnings will go a LONG way

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Rate of Pay

- ▶ Must receive "Regular Rate" of pay – defined by wage/hour law
- ▶ That includes any premium pay and non-discretionary bonuses
- ▶ Bonuses paid in same pay period or those that apply to hours worked in that pay period and paid later?
- ▶ May have to audit and issue supplemental retro pay – similar to overtime pay audits
- ▶ Ensure you consult with payroll and be consistent

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Employer's Obligations

- ▶ Allow use as accrued – no waiting period
- ▶ Allow use in smallest increment payroll tracks other leave – which at many organizations that's 15 minutes
- ▶ Do not interfere with use (cannot require coverage to use or penalize)
- ▶ Only request documentation to confirm qualifying reason if absence is 3 or more consecutive workdays – do not request detailed medical information/diagnosis

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Employer's Obligations

- ▶ Roll over accrued but unused leave from one year to next
- ▶ Reinstatement of accrued but unused balance if rehired in 6 months
- ▶ Exception to rollover/reinstatement = cash out
- ▶ Do not retaliate or discriminate against those who use paid sick leave

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Other Nuances

- ▶ Employees transferred to a "separate entity or location" but remain "employed by the same employer" retain their accrued but unused leave
- ▶ Successor employers inherit balances
- ▶ If length of shift is typically set by business needs – look at # of hours worked by replacement employee or average length typically worked in past 30 days

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Employer's Notice Requirement

- ▶ Written notice by July 31, 2025 or start of employment, whichever is later
- ▶ Must include:
 - (1) The statement that beginning July 1, 2025, employees are entitled to paid sick leave
 - (2) The amount of paid sick leave available
 - (3) The terms of its use as guaranteed under the law
 - (4) The statement that retaliation against employees who request or use paid sick leave is prohibited

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Implementation Tips

- ▶ Ensure notice is given
- ▶ Review any remote employee situations to determine if law applies to them
- ▶ Train supervisors to understand obligations and report usage
- ▶ Ensure policies are clear on how much time can be used each shift
- ▶ Review usage from 2025 and at end of 2026 and consider other options

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Your Role

- ▶ Ensure you and your team understand law and own policies
- ▶ Do not discourage or force use of paid sick leave (but can require use of paid leave before unpaid)
- ▶ Ensure time off is coded correctly
- ▶ Evaluate if Paid Leave Tax Credit should be taken – per OBBBA and IRC § 45S

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Paid Family & Medical Leave Credit

- ▶ Credit available under IRC § 45S
- ▶ Must meet criteria (2+weeks for FT at 50%+) or state paid leave program
- ▶ Employer options:
 1. Take credit for 12.5-25% of wages paid to qualifying employees
 2. Take credit for 12.5-50% of premiums paid for PFML insurance (wage replacement)
- ▶ Track qualifying wages in payroll system (ensure coding between paid and unpaid leave)

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Paid Family & Medical Leave Credit

- ▶ Review Revenue Ruling 2025-4 for more information as to how to tax and report premiums and payments made under state paid family/medical leave
- ▶ Coordinate with finance team/advisors to evaluate options

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Supervisor Role

- ▶ Leave information/documentation requests to Admin/HR
- ▶ Do not ask about or discuss medical diagnosis
- ▶ Do not discipline or take other adverse action against anyone who arrives late, or misses work until they are certain EE cannot apply paid sick leave to their missed time
- ▶ Do not make comments in passing that could be misinterpreted as criticisms of paid sick leave use

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Supervisor Should Engage Admin/HR if:

- ▶ An employee is out for more than 3 consecutive workdays or indicates they will be for their own care or to help care for another (should include follow up within next 30 days in day count)
- ▶ They learn or suspect an employee may need intermittent time off for their own care or to help care for another
- ▶ They learn an employee has taken or will need time off to address their own or immediate family member's military service, upcoming deployment or illness or injury arising from deployment

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Why?

- ▶ They may qualify for protections under the Family Medical Leave Act (FMLA)
- ▶ Their absences may need to be tracked under FMLA
- ▶ Admin/HR may need to engage in an interactive discussion with the employee to determine if they may potentially need additional unpaid leave or another accommodation under Americans with Disabilities Act (ADA)

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Why?

- ▶ Admin/HR may need to work with employee to address insurance coverage/premiums while the employee is out
- ▶ Admin/HR may need to work with supervisor and employee on an appropriate return to work plan

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FMLA

- ▶ Covers employers that have 50 or more employees for 20 or more workweeks in current or *prior year*
- ▶ Covers employees that:
 - have worked at least 12 months (total - not consecutive);
 - have worked at least 1,250 hours in past year; and
 - work at a site within 75 miles of which 50 or more employees work

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FMLA - General & Exigency Leave

- ▶ Provides up to 12 workweeks of unpaid, job-protected leave for:
 - pregnancy, prenatal medical care and childbirth
 - childcare following birth or placement for adoption or foster care
 - Serious health condition of employee, child, spouse or parent
 - obligations arising from military service (spouse, child, parent being called to covered active duty)

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FMLA - Military Caregiver Leave

- ▶ Provides up to 26 workweeks of unpaid, job protected leave to care for spouse, child, parent or next of kin service member with serious injury or illness

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FMLA

- ▶ 12 or 26 workweeks is per 12-month period
- ▶ Time can be taken in periodic 15 min increments or hours (intermittent), through a reduced schedule or full consecutive days (continuous)
- ▶ 5 business day notice requirement re: eligibility
- ▶ If paid sick leave or FMLA leave is for own serious health condition – consideration under ADA may also be required

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ADA

- ▶ Americans with Disabilities Act prohibits discrimination against:
 - qualified individuals with a disability
 - those regarded as having or have a record of a disability
 - those who are associated with someone with a disability (usually caring for disabled family member)
- ▶ Applies to employers with 15 or more employees and federal contractors with contracts over \$10,000
- ▶ Alaska's local laws against discrimination often interpreted to include obligation to accommodate

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ADA - Reasonable Accommodations

- ▶ To avoid discrimination, employers must provide reasonable accommodations unless doing so would cause:
 - undue burden upon employer
 - a direct threat of significant risk of substantial harm to employee, others or property
- ▶ Most common accommodation = unpaid time off

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PWFA

- ▶ Pregnancy Workers Fairness Act – 2023
- ▶ 15 or more employees
- ▶ FMLA, ADA and Pregnancy Discrimination Act left gap re: certain pregnancy and childbirth related needs
- ▶ Reasonable accommodations for pregnancy related limitations and physical and mental conditions
- ▶ Common accommodations: modified work schedules, ergo adjustments, temp reassignments, leave to recover from childbirth
- ▶ Can only request documentation if reasonably necessary

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Apply What We've Learned

- ▶ On July 3, Stan doesn't show up for work as scheduled
- ▶ He doesn't timely call out
- ▶ When you call him few hours into his shift – he tells you he's staying home to take care of his uncle
- ▶ What do you do?

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Apply What We've Learned

- ▶ On July 16th, Stan again doesn't show up as scheduled.
- ▶ He doesn't timely call out.
- ▶ When you reach him, he states he is taking a "*mental health day*"
- ▶ What do you do?

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Apply What We've Learned

- ▶ What if in the same call he also states:

"I think I'm depressed and may need a few days off?"

- ▶ What if he instead states that he needs a mental health day and:

"I'm so stressed out from dealing with trying to make a decision on what to do about my mother-in-law's long-term care?"

Apply What We've Learned

- ▶ What if he says he isn't coming in because he has to go with his daughter to get a power of attorney signed before she leaves for her deployment?
- ▶ What if he says he needs to take his wife – who has recently returned from deployment - to the Veteran's Hospital for a treatment appointment?

Apply What We've Learned

- ▶ Sloane shows up 3 hours late on July 7th
- ▶ She didn't call to let you know she'd be running late
- ▶ She doesn't give a reason for her absence but asks, "Can I apply paid sick leave to this morning?"
- ▶ What do you say?

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Apply What We've Learned

- ▶ Does your approach change if Sloane leaves 3 hours early on Thursday, July 10th without telling anyone and asks on Monday, July 14th if she can apply paid sick leave?
- ▶ What if she tells you that she had to leave early to get to the Court House before it closed so she could address a protective order filed against her?
- ▶ What if she asks for the following Thursday off for cosmetic surgery?

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Don't Forget

- ▶ Any workplace related injury/illness must be reported immediately
- ▶ Use of sick leave may trigger FMLA and/or ADA obligations
- ▶ If a return-to-work clearance is needed, be consistent
- ▶ Your feedback matters – share it!

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Additional Resources

- ▶ AK DOL FAQ
<https://www.labor.alaska.gov/lss/sick-leave-faq.html>
- ▶ DOL Fact Sheets on FMLA
<https://www.usa.gov/family-leave-act>
- ▶ DOL ADA Myths & Facts
<https://www.dol.gov/agencies/odep/ada/MythsandFacts>
- ▶ SHRM and DMEC Online Resources

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QUESTIONS?

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THANK YOU!

Renea Saade
907.903.9356
reneaSaade@outlook.com

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